

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JOHN PAUL BRADLEY,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 4:05-CV-1176-DDN
	)	
DAVE DORMIRE,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER OF TRANSFER**

This matter is before the Court upon transfer from the United States District Court for the Western District of Missouri.

Petitioner John Paul Bradley has filed a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and an application for leave to commence this action without payment of the required filing fee. See 28 U.S.C. § 1915(a). The Western District granted petitioner provisional leave to proceed in forma pauperis. Upon consideration of the financial information provided with the application, the Court finds that petitioner is financially unable to pay any portion of the filing fee. Therefore, the Court will grant petitioner leave to proceed in forma pauperis.

On June 5, 1995, petitioner pleaded guilty in the Circuit Court of New Madrid County, Missouri, to one count of murder in the second degree. He was sentenced to life imprisonment.

The Court's records show that petitioner has previously brought a § 2254 petition for a writ of habeas corpus challenging his June 5, 1995 conviction. See Bradley v. Dormire, No. 4:97-CV-2428-DDN (E.D. Mo.). The § 2254 action was dismissed on the merits

on September 29, 2000. Title 28 U.S.C. § 2244(b)(3)(A) provides that "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application."

Because petitioner did not obtain permission from the Eighth Circuit Court of Appeals to maintain the instant § 2254 application in this Court, the Court lacks authority to grant petitioner the relief he seeks. Rather than dismiss this action, the Court will transfer the petition to the United States Court of Appeals for the Eighth Circuit pursuant to 28 U.S.C. § 1631. See In re Sims, 111 F.3d 45, 47 (6th Cir. 1997); Coleman v. United States, 106 F.3d 339 (10th Cir. 1997); Liriano v. United States, 95 F.3d 119, 122-23 (2d Cir. 1996).

Therefore,

**IT IS HEREBY ORDERED** that petitioner's motion for leave to proceed in forma pauperis [Doc. #2] is **GRANTED**.

**IT IS FURTHER ORDERED** that no order to show cause shall issue as to the respondent, because the instant petition is successive under 28 U.S.C. § 2244(b)(3)(A).

**IT IS FURTHER ORDERED** that petitioner's application for a writ of habeas corpus is **DENIED**, without prejudice.

**IT IS FURTHER ORDERED** that the Clerk shall **TRANSFER** the

instant petition to the United States Court of Appeals for the Eighth Circuit pursuant to 28 U.S.C. § 1631.

Dated this 23<sup>rd</sup> day of August, 2005

/s/ Jean C. Hamilton  
**UNITED STATES DISTRICT JUDGE**